5-2-2013

Mulford v. Union Pacific R.R. Appellant's Reply Brief Dckt. 39991

IN THE SUPREME COURT OF THE STATE OF IDAHO

CRAIG L. MULFORD, an individual, Plaintiff/Appellant, v. UNION PACIFIC RAILROAD, a foreign corporation, Defendant/Respondent.	)	Supreme Court Docket No. 39991-2012 Bannock County Case No. CV-2009-4313-PI

APPELLANT'S REPLY BRIEF ON APPEAL

Appeal from the District Court of the Sixth Judicial District of the State of Idaho in and for the County of Bannock, Honorable Stephen S. Dunn, District Judge, Presiding.

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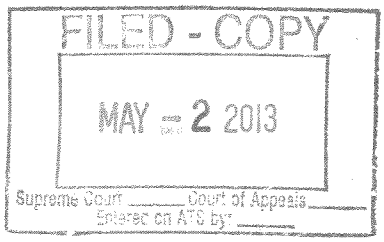

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ARGUMENT

A. THE DISTRICT COURT COMMITTED REVERSIBLE ERROR WHEN IT FAILED TO FOLLOW ITS DUTY TO EXCUSE MR. TAYLOR FOR CAUSE BASED ON HIS IMPLIED AND ACTUAL BIAS, THEREBY DEPRIVING MR. MULFORD OF HIS CONSTITUTIONAL RIGHT TO A TRIAL BY AN IMPARTIAL JURY.

1. The District Court had a duty, which it failed to uphold, to excuse Presiding Juror Taylor for implied bias based on consanguinity.

Union Pacific does not dispute that the U.S. Constitution, Amendment VII, and the Constitution of the state of Idaho, Article I, §7, both grant the parties to a civil suit the right to a trial by an impartial jury. Further, pursuant to Article I, § 7, the right to trial by jury "shall remain inviolate." Additionally, Idaho Rule of Civil Procedure 38(a), provides the parties to a civil suit the right to a jury trial. A party's "inviolate" right to an impartial jury is achieved by excusing for cause any juror admitting to or harboring implied and/or actual bias. Idaho Code §§ 19-2019 and 19-2020(1)[1] and Idaho Idaho Rule of Civil Procedure 47(h)(2) and (7) exist to preserve and provide a party's the right to an impartial jury.

While UP asserts Mr. Mulford waived the consanguinity challenge, the District Court's mandatory duty to excuse Presiding Juror Lorin Taylor. The District Court's duty cannot be waived. "[T]he primary responsibility for voir dire and the selection of competent jurors rests upon the trial judge." *Quincy v. Jt. School Dist. No. 41, Benewah County*, 102 Idaho 764, 770, 640 P.2d 304, 308

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[1] UP incorrectly asserts that I.C. §§19-2019 and 19-2020(1) only apply to criminal proceedings. Brief of Respondent, p. 4, fn.2. However, this is belied by Idaho Rule of Civil Procedure 47(h)(1) which provides that challenges for cause are based on "[a] want of any of the qualifications prescribed by the Idaho Code to render a person competent as a juror." This includes the aforementioned statutes, as well as §19-2018, discussed further in the remainder of this brief.

(1981).[2]

The record unequivocally establishes, and it is not puzzling or difficult to see that Presiding Juror Lorin Taylor held consanguinity with UP, such that the District Court was required, by §§19-2019 and 19-2020, and Rule 47(h)(2) to excuse him for cause. While Union Pacific is a corporation, a corporation is a "person." *See* Idaho Code 30-1-140(32)("'Person'" includes individual and entity" in the definition of a corporation). *See also, Citizens United v. Federal Election Commission,* 130 S. Ct. 876, 900 (2010). UP does not dispute Mr. Taylor's father was employed by UP. Tr., p. 61, ll.12-25. Mr. Taylor's grandfathers, three uncles and a brother were members of UP. Tr., p. 112,ll. 6-15.[3] This certainly qualifies as consanguinity under Idaho Code §19-2020(1), and Idaho Rule of Civil Procedure 47(h)(2), such that the District Court **was required to excuse** Mr.

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[2] UP contends Mr. Mulford waived his right to challenge Presiding Juror Taylor based on consanguinity, citing to *Morris v. Thomson*, 130 Idaho 138, 937 P.2d 1212 (1997). That case is distinguishable, as there the issue as to the cause challenges were based on the jurors' business relationship with the defendant, as well as jurors, **who ended up being excused by the trial court due to their or their family members' being patients of the defendant doctor**. *Id., at* 141, 937 P.2d at 1215[emphasis supplied].

[3] UP asserts the lack of the identity of the "potential juror" precludes appropriate evaluation by this Court on appeal, related to Mr. Taylor's brother, grandfather and three uncles working for UP. *Brief of Respondent*, p. 3, fn.1. Therein lies a "Catch-22" based on the District Court's failure to preserve and create an accurate and proper record, which UP does not dispute. Again, it is the trial court's "primary responsibility" to select competent jurors. *See, State v. Merrifield,* 109 Idaho 11, 16, 704 P.2d 343, 348 (Ct. App. 1985)(*citing, Quincy v. Jt. School Dist. No. 41, supra*, 102 Idaho 764, 640 P.2d 304 (1982)). It follows that in selecting competent jurors, the trial court must create an accurate record, which the district court did not do here in failing to have Mr. Taylor identify himself when providing further information as to his consanguinity with UP.

Taylor for cause. "[R]esolving doubt in favor of retaining a juror can result in deprivation of a fair trial." *State v. Hauser*, 143 Idaho 603, 610, 150 P.3d 296, 304 (Ct. App. 2006). Based on Mr. Taylor's implied bias from consanguinity with UP, the remedy was simple: excuse Mr. Taylor and replace him with an impartial juror, free of implied bias.

Moreover, excusing Mr. Taylor was mandatory, the as it would be if he were a convicted felon or a person having a debtor-creditor relationship. A convicted felon cannot serve on a jury, as proscribed by Idaho Code § 19-2018(1). Further, a juror with a debtor-creditor relationship with one of the parties to the case cannot sit on the jury, as prohibited by I.C. § 19-2020 (2) and Rule 47(h)(3). Likewise, the District Court **was required** to excuse Mr. Taylor based on his consanguinity with UP. The District Court's failure violated Mr. Mulford's "inviolate" constitutional right to having a fair trial decided by an impartial jury. Further, the District Court's failure was an abuse of its discretion and reversible error.

2. The record unequivocally shows Presiding Juror Lorin Taylor held actual bias against Mr. Mulford and the District Court abused its discretion and committed reversible error in refusing to excuse him for actual bias.

In addition to the District Court's failure to comply with its duty to excuse Mr. Taylor for his implied bias, it also committed reversible error in failing to excuse Mr. Taylor for actual bias. UP admits[4] that Mr. Taylor admitted, based on his "personal opinion," that he could and would not award any damages for pain and suffering, as he "[did not] believe that pain and suffering should

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[4] Brief of Respondent, p.6-8.

be entered for compensation." Tr., p. 87, l.8-p. 90, l.2. This qualified as actual bias under Idaho Code §19-2019(2) and Idaho Rule of Civil Procedure 47(h)(7).

UP improperly characterizes the District Court's error as rehabilitating Presiding Juror Taylor. The flaw of UP's characterization is self-evident from the following colloquy:

> POTENTIAL JUROR # 29: Lorin Taylor, juror 29.
>
> THE COURT: Thank you.
>
> [LORIN TAYLOR]: It's more personal opinion that I do believe that if somebody's going to be covered for lost wages, compensation, hospital bills and stuff like that, why further it for pain and suffering? I was injured on the workforce too. I didn't get any lawsuit. I didn't get any money. And that's okay, because there's programs out there for everything. And, you know, I got my lost wages, but I didn't get any pain and suffering. But the hospital bills were paid.
>
> MR. LARSEN: So in this case for an item of damage of pain and suffering could you follow the law? And if the law, in fact, supports that Mr. Mulford is entitled to money damages for pain and suffering, could you award that given your experience?
>
> [MR. TAYLOR]: I believe that I can be fair on both sides. **Pain and suffering is one thing, but if he still gets lost wages, retirement, and hospital bills covered, that's a lot of pain and suffering in itself right there.**
>
> MR. LARSEN: **They're separate damages. And that's why I asked this, because I want to make sure that you're going be [sic] fair on every aspect of this. And if there's a certain aspect of damage that you just say I don't believe in it, cowboy up and move on, I want to know that. That would be an indication that you may not be able to follow the judge's instructions.**
>
> [LORIN TAYLOR]: **Okay. Yeah. I don't believe that pain and suffering should be entered for compensation.**

MR. LARSEN: All right. I'd move for excusing for cause, Your Honor.

MR. DENSELY: Your Honor, may we approach.

THE COURT: Just a second. Let me ask a question. Mr. Taylor, in this particular case, the judge dictates or tells the jury what the law in Idaho is, what the duties are, what the responsibilities of the parties are to each other, and what the damages are that can be awarded if the evidence supports it. If I were to instruct you that certain items of damages are compensable and you believe that the evidence supported those items of damage, would you follow my instructions and award the damages that you think the evidence would support?

[LORIN TAYLOR]: Yes.

THE COURT: Okay. Thank you. You may proceed.

MR. LARSEN: **And that would include an item for pain and suffering?**

[LORIN TAYLOR]: **Okay. Like I said, just personal opinion so–**

Tr., p. 87, l.8-p. 90, l.2 [Emphasis supplied]. Despite Mr. Taylor's repeated admissions he could not be impartial, the District Court informed Mr. Taylor that he was to follow its instructions. *Id.* The District Court made Mr. Taylor a liar, and its lecture to him did not change his biased stripes-that is, his strong, and admitted, personal beliefs that plaintiffs, which included Mr. Mulford, should not get pain and suffering damages.

UP posited that Mr. Mulford waived his challenge to excuse Mr. Taylor for cause due to actual bias. The previously cited colloquy unequivocally belies this faulty position. Mr. Mulford made the aforementioned objection to Mr. Taylor. UP's position would require Mr. Mulford to object over and over again, and tell the District Court that it is wrong, to avoid waiver, which is not

the law. There record clearly establishes Mr. Mulford adequately made and preserved his objection to Mr. Taylor for his actual bias. Tr., p. 89, ll.5-6.

Also, UP contends Mr. Mulford was required to exhaust his peremptory challenges, and was prejudiced by being required to use such a challenge to remove the juror citing to *Nightengale v. Timmel,* 151 Idaho 345, 256 P.3d 755 (2011) and *State v. Ramos*, 119 Idaho 568, 808 P.2d 1313 (1991). However, in both of those cases, the juror the parties challenged for cause did not sit or deliberate on the jury. *Nightengale*, 151 Idaho at 353, 256 P.3d at 763; *Ramos,* 119 Idaho at 569, 808 P.2d at 1314. Here, not only did Mr. Taylor with his implied and actual bias sit on the jury, he was the presiding foreperson who not only decided the case but was the chosen leader to present the jury's verdict.

Additionally, UP's position has little credence, since UP does not give any response to this Court's holding that a party should not be forced to exercise a peremptory challenge to excuse a potential juror who is disqualified for cause. *Stoddard v. Nelson*, 99 Idaho 293, 296, 581 P.2d 339, 342 (1978). As this Court stated:

> [A] litigant should not be forced to exercise a peremptory challenge to exclude the prospective juror when it clearly appears that (the prospective juror) is disqualified for cause.

Id. Stoddard is still good law. More importantly, the District Court had the simple remedy of excusing Mr. Taylor and selecting an impartial juror to replace him. However, as is evident from the record, the District Court ignored this simple remedy and chose to allow Mr. Taylor to remain on the jury. Once again, the District Court failed to follow its mandatory, statutory duty to select

an impartial jury, deprived Mr. Mulford of his right to an impartial jury, abused its discretion and committed reversible error. Mr. Mulford is entitled to this Court remanding the case back to the District Court for a new trial.

B. AS MR. MULFORD DID NOT OPEN THE DOOR REGARDING HIS RRB BENEFITS, THE DISTRICT COURT COMMITTED REVERSIBLE ERROR IN ALLOWING SUCH EVIDENCE TO GO TO THE JURY.

There is no legitimate dispute that Mr. Mulford's RRB benefits are a collateral source.[5] There is also no legitimate dispute that Mr. Mulford filed motions in limine precluding such evidence to go to the jury. Mr. Mulford did not open the door to allow UP to improperly question him about the collateral source evidence.

1. The District Court initially held RRB benefits were a collateral source.

UP asserts the District Court reserved ruling on the issue of whether evidence of Mr. Mulford's RRB benefits, which are a collateral source, should go to the jury. Initially, the District Court decided such evidence was not admissible. Prior to trial, Mr. Mulford moved in limine to prevent UP from introducing evidence of his receiving RRB benefits. R., Vol. I, pp. 20-178. Mr. Mulford asserted that RRB benefits were a "collateral source" and inadmissible at trial. During trial, after the District Court allowed UP to improperly question Mr. Mulford about his RRB benefits, the

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[5] UP would not concede Mr. Mulford's RRB benefits are a collateral source, arguing, once again, out of proper context, that such benefits are "funded by a substantial contribution of the employer." Brief of Respondent, p. 21, fn.5. Aside from the fact that this is no where in the record, what UP fails to state in proper context is that it does not entirely fund those benefits. It further misrepresents the fact that Mr. Mulford funds his RRB benefits through **substantial contributions from his own pay.**

District Court stated it would not have allowed RRB benefits evidence to go to the jury. The District Court stated:

> **And in my view from the outset, the RRB was a collateral source . Clearly collateral source evidence is almost never admissible and shouldn't have been in this case, and I've made that ruling in the motions in limine for that specific reason.**

Tr., p. 323, ll.1-7 [emphasis supplied]. Once again, UP submitted an incorrect position to this Court.

2. Mr. Mulford did not open the door to RRB benefits.

Mr. Mulford's testimony at trial did not raise the issue of RRB benefits, as is self-evident from his testimony:

> Q. [BY MR. GABIOLA] Have you looked for any other employment?
> A. I've looked for a lot of part-time work, because I would like to get into finding out how I would be able to work or if I could even work. So I've applied at a lot of auto parts stores, Convergys, Sears. I can't remember everything but–Home Depot.

Tr., p. 201, l.17-p. 202, l.1. Also, again, Mr. Mulford testified to this to respond to UP's mitigation defense. It stretches the imagination as to how this opened the door to his RRB benefits, since, as is clear, he never stated that he was poor, facing financial difficulties or malingering, which the subsequent cases held opened the door.

In support of its position, UP cites to Mr. Mulford's discovery deposition in a meager attempt to claim Mr. Mulford's trial testimony was inconsistent with his deposition testimony. UP does not posit to the Court the proper context as to Mr. Mulford's deposition testimony. In Mr. Mulford's

deposition testimony, UP questioned Mr. Mulford as to his RRB benefits, over objection by Mr. Mulford's counsel. To those questions, Mr. Mulford's counsel stated the following objection:

> **And I'm going to object to the form of the question as it calls for collateral source information. But you can answer.**

R., Vol. I, pp. 94-95 [emphasis supplied]. Also, UP does not put the entire context in its questioning of Mr. Mulford in his deposition, as to whether Mr. Mulford had testified whether he could go back to work or what kinds of jobs he could do. The following colloquy puts the matter in proper context:

> Q. [By Mr. Densley] Okay. So what kind of jobs do you think that you can do now?
>
> A. **I don't know.** I could probably be a lube technician and maybe work on a farm.
>
> Q. Did you say "a farm"?
>
> A. Uh-huh.
>
> Q. As a mechanic?
>
> A. **Probably. I don't know.**

R., Vol. I., p. 95 (Mulford deposition, p. 58, ll.17-24). And, UP's attempt to state that it was impeaching Mr. Mulford because he testified he did not know if he could do the jobs, would and should have been limited to his deposition testimony on that issue. It did not include his testimony for RRB benefits.

Furthermore, UP incorrectly asserts that the only objection Mr. Mulford's counsel made to this evidence at trial was on the basis of relevance and asked an answered. To the contrary, his

counsel reminded the District Court prior to its allowance of RRB benefits evidence, that UP's questions, "raise[d] an issue that we addressed in our motions in limine." Tr., p. 250, ll.23-25. In his motions in limine, Mr. Mulford asserted, in addition to the fact his RRB benefits were a collateral source, that such evidence was inadmissible as being more prejudicial than probative under I.R.E. 403. R., Vol. I, pp.185-86

As to UP's argument that the District Court offered to strike the testimony or give a cautionary instruction, this is little consolation, and unrealistic, since the horse had left the barn. The damage had already been done, and no instruction by the District Court could or would have cured the damaging, prejudicial effect evidence of the RRB benefits had on the jury. This is especially true, again, since Presiding Juror Lorin Taylor, with his consanguinity with UP, and his obvious knowledge as to how the RRB system worked. Mr. Taylor testified about this during voir dire when questioned by the Court. and UP's counsel:

> THE COURT: Do you have any kind of relationship with the parties such as Employer/employee, debtor/creditor, attorney/client, master/servant, that kind of relationship?
> ***
> POTENTIAL JUROR #29[Lorin Taylor]: Yes.
> THE COURT: Tell me what your relationship is.
> [LORIN TAYLOR]: My father's an employee of Union Pacific.
> THE COURT: Your father's an employee of the railroad. All right. And so you don't have that relationship. Your father does.
> [LORIN TAYLOR]: Yes.

Tr., p. 61, l.12-25. Mr. Taylor further reiterated his knowledge of retirement and his dad:

> MR. DENSLEY: All right. Who was the next one? Yes, sir.
> [LORIN TAYLOR]: My mother slipped and fell on some ice and tore her meniscus
> and had surgery. My dad's been at the railroad for 35 years, **getting ready to take retirement** and had to replace both of his knees just due to hard work and old age.
> MR. DENSLEY: And what was his craft on the railroad?
> [LORIN TAYLOR]: He worked for a machinist gang for a long time, and now he's a foreman.
> MR. DENSLEY: **So is he still working for the railroad?**
> [LORIN TAYLOR]: **Yeah. He'll take full retirement at the end of July.**
> MR. DENSLEY: Did you say he had double knee replacements?
> [LORIN TAYLOR]: He has to get them. He's just going to wait until he's retired.
> MR. DENSLEY: Oh, I see. So that's something that he's going to get eventually but he's going to wait until retirement.
> [LORIN TAYLOR]: Yeah, but it's not injury related. It's just due to wear and tear.

Tr., p.106, l.16-p. 107, l.15[emphasis supplied]. It does not take a rocket scientist to figure out Presiding Juror Lorin Taylor was well versed in and knew full well about RRB benefits.

3. The District Court abused its discretion in admitting the RRB benefits.

UP contends that Mr. Mulford's substantial rights were not affected by the District Court's admission of the RRB benefits. If the improper admission of collateral source evidence were not a substantial right, the state of Idaho would not have enacted Idaho Code §6-1606. Further, the federal courts would not have held it was reversible error to allow the admission of RRB benefits, which are a collateral source. *See, Eichel v. New York Central Railroad*, 375 U.S. 253, 255 (1963). In *Eichel*, like in this case, the railroad sought to introduce evidence at trial that the plaintiff received disability benefits under the Railroad Retirement Act for the purpose of impeaching plaintiff's

testimony regarding his alleged motivation in not returning to work. *Eichel* 375 U.S. at 253-54. The U.S. Supreme Court held that the collateral source rule bars evidence of benefits and payments received by injured railroad employees from sources independent of their railroad employers, **because the prejudicial effect of such evidence and its potential for jury misuse far outweighs its probative value**. *Id.* at 255 [emphasis supplied]; *See also Tipton v. Socony Mobile Oil Inc.*, 375 U.S. 34, 37 (1963); *Sheehy v. Southern Pacific Transportation Co.*, 631 F.2d 649, 652 (9th Cir. 1980); *Green v. Denver and Rio Grand Western Railway Co.*, 59 F.3d 1029, 1032 (10th Cir. 1995). Moreover, in *Green, supra*, the Tenth Circuit held the trial court committed reversible error because "*Eichel* compels the conclusion that the collateral source rule prohibits admission of RRA disability benefits in a FELA case." *Id.,* 59 F.3d at 1032-33. Further, the court in *Green* held that "public policy favors giving the plaintiff a double recovery rather than allowing a wrongdoer to enjoy reduced liability simply because the plaintiff received compensation from an independent source." *Id.*

Moreover, the District Court deprived Mr. Mulford of his constitutional right to a fair trial by an impartial jury. The admission of RRB benefits, combined with the obvious consanguinity and knowledge Presiding Juror Taylor held with UP and RRB benefits, deprived Mr. Mulford of having his case decided by an impartial jury. This is further bolstered by Presiding Juror Lorin Taylor's personal and actual bias of not awarding pain and suffering. The simple truth remains: Mr. Mulford did not get a fair trial because the District Court failed to comply with the statutes and rules in not excusing Mr. Taylor, which was further compounded by its improper and erroneous decision to admit evidence of Mr. Mulford's RRB benefits.

4. **Mr. Mulford never testified as to his RRB benefits and did not raise any issue to open the door to that evidence.**

UP gives a lengthy discussion and citation to its tenuous position Mr. Mulford opened the door. All of the cases it cites to are patently distinguishable and inapposite to this case. The plaintiffs in those cases claimed *emotional injury due to financial stress, lack of insurance, malingering or inability to pay bills* an issue thereby opening the door. This was admitted to by UP in its brief and citation to its cases.[6] *See, Crowther v. Consolidated Rail Corp.*, 680 F.3d 95, 100 (1st Cir. 2012)(evidence of malingering); *Moore v. Missouri Pac. R.R. Co.*, 825 S.W.2d 839, 842-43 (Mo. 1992)(plaintiff testified he **could not afford physical therapy**); *Moses v. Union Pac. R.R. Co.*, 64 F.3d 413, 416 (8th Cir. 1995); *Lange v. Missouri Pac. R.R. Co.*, 703 F.2d 322, 323-4 (8th Cir. 1983)(plaintiff testified he had **no savings or disability income** to support his family while off work); *Gladden v. P. Henderson & Co.*, 385 F.2d 480, 482 (3rd Cir. 1967)(plaintiff testified **he got behind on his bills while off work**)). In this matter, it is self-evident that Mr. Mulford did not testify he was suffering financial distress, lacked insurance, could not pay his bills or that he was malingering, unlike the plaintiffs in the cases cited by UP. Mr. Mulford simply testified he wanted to see if he could get back to work or if he could work, that was it. It in no way opened the door to RRB benefits. Mr. Mulford simply testified in opposition to UP's mitigation defense, which it asserted, that Mr. Mulford had to look for other work to mitigate his damages.

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[6]Brief of Respondent, pp. 23-26.

Certainly, the fact that the jury had evidence of Mr. Mulford's RRB benefits wrongfully prejudiced the jury against Mr. Mulford. Additionally, Mr. Taylor's consanguinity with UP, his background knowledge of RRB benefits, and his actual bias against awarding pain and suffering, combined with evidence that Mr. Mulford was receiving RRB benefits, further prejudiced the jury against Mr. Mulford. This in turn resulted in the jury returning a verdict in favor of UP against Mr. Mulford. Under these circumstances, Mr. Mulford did not receive a fair trial and the matter should be remanded for him to receive a new one.

C. UNION PACIFIC WAIVED ITS RIGHT TO FEES AND COSTS ON APPEAL.

UP did not request, nor has it sought, attorney's fees or costs on appeal. Moreover, UP did not argue or cite to any statute or rule as to attorney's fees and costs on appeal. It is axiomatic that a party requesting fees must submit the statutory basis for requesting fees. *Michalk v. Michalk*, 148 Idaho 224, 235, 220 P.3d 580, 591 (2009); *Farnworth v. Ratliff,* 134 Idaho 237, 999 P.2d 892 (2000); *Gilman v. Davis*, 138 Idaho 599, 67 P.3d 78 (2003). Moreover, a party waives his issues or arguments on appeal, when such are not supported by legal authority or the record. *Bach v. Bagley,* 148 Idaho 784, 229 P.3d 1146 (2010). UP waived its right to seek or request attorney's fees and costs.

D. MR. MULFORD IS ENTITLED TO ATTORNEY'S FEES AND COSTS ON APPEAL.

Mr. Mulford is entitled to attorney's fees and costs under Idaho Code §12-121 and Idaho Appellate Rules 40 and 41. Idaho Code §12-121 and I.A.R. 41 allow for the award of attorney's fees

and costs in a civil action where a matter was defended frivolously, unreasonably and without foundation. I.A.R. 40 allows for the award of costs to the prevailing party on appeal.

Mr. Mulford submits that the District Court's errors in failing to excuse Mr. Taylor as a juror for cause, combined with its erroneous admission of RRB benefits deprived Mr. Mulford of his right to trial by an impartial jury. The District Court's failure to uphold and conform with its statutory duty to excuse Mr. Taylor is reversible error. This certainly makes UP's position unreasonable and without foundation. For these reasons, Mr. Mulford is entitled to attorney's fees and costs on appeal.

CONCLUSION

Based on the foregoing, Mr. Mulford respectfully requests that the Court remand the case back to the District Court for a new trial.

DATED this 30 day of April, 2013.

COOPER & LARSEN, CHARTERED

By _____
REED W. LARSEN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of April, 2013, I served I served two (2) true and correct copies of Appellant's Brief on Appeal to the following person(s) as follows:

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